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 NextG Networks of California, Inc.

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

NEXTG NETWORKS OF CALIFORNIA, INC., )	No. C 05 0658-MHP
a Delaware corporation, )	
Plaintiff, )	<del>[REVISED PROPOSED]</del>
v. )	DECLARATORY JUDGMENT,
THE CITY OF SAN FRANCISCO and THE )	INJUNCTION AND WRIT OF
DEPARTMENT OF PUBLIC WORKS OF THE )	MANDAMUS
CITY OF SAN FRANCISCO, )	
Defendants. )	

Plaintiff NextG Networks of California, Inc. ("NextG") made a motion for partial summary judgment against Defendants City of San Francisco ("the City") and The Department of Public Works of the City of San Francisco ("DPW"). The action came on for hearing before the Court. The issues have been heard and a decision has been rendered. On June 2, 2006, the Court entered a Memorandum & Order Re: Motion for Summary Adjudication ("Memorandum & Order"), granting NextG's motion for

1 partial summary judgment on the First, Fourth and Fifth Claims for Relief in NextG's Complaint, and  
2 granting NextG declaratory relief, an injunction and a writ of mandamus.

3 For the reasons set forth in the Memorandum & Order, the Court hereby issues a declaratory  
4 judgment that the City's and DPW's refusal to issue NextG a Utility Conditions Permit and the City's  
5 and DPW's requirements, including but not limited to the requirement that NextG obtain a major  
6 encroachment permit, violate 47 U.S.C. § 253(a), are preempted by 47 U.S.C. § 253(a) and are not  
7 permitted by 47 U.S.C. § 253(b) or 47 U.S.C. § 253(c). The Court hereby issues a declaratory judgment  
8 that NextG has the right, pursuant to 47 U.S.C. § 253, to install, operate and maintain its  
9 telecommunications network in public rights-of-way within the City, including but not limited to the  
10 installation of its radio frequency ("RF") antennas and microcells on existing utility poles within the  
11 City, subject only to reasonable time, place, and manner restrictions consistent with the City's ability to  
12 manage the public way as set forth in the Memorandum & Order and as applied on a nondiscriminatory  
13 basis to all other grantees of the Utility Conditions Permit in the City.

14 The Court hereby orders that the City and DPW, and the agents, officers, employees and any  
15 other persons acting on behalf of the City or DPW, are permanently enjoined from requiring NextG to  
16 obtain a major encroachment permit in order to install, operate and maintain its telecommunications  
17 network in public rights-of-way within the City and from imposing on NextG permit or other access  
18 requirements not also imposed on all other telecommunications services providers.

19 The Court hereby issues a writ of mandamus and an injunction requiring the City and DPW to  
20 hereinafter promptly grant NextG access to the public rights-of-way within the City to install, operate  
21 and maintain its telecommunications network by issuing NextG such lawful permits as NextG may  
22 require, and to issue NextG a Utility Conditions Permit in the form attached hereto, as well as any other  
23 necessary and legitimate permits, including any that may be required by Article 18 of the San Francisco  
24 Public Works Code, within ten (10) days. The Court hereby issues a writ of mandamus and an  
25 injunction requiring the City and DPW thereafter promptly to issue NextG such additional lawful  
26 permits as NextG may request and the City may require of all other telecommunications providers under  
27 a Utility Conditions Permit.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this judgment terminates this  
2 action as to plaintiff's First, Third, Fourth and Fifth Claims for Relief, the Court having found pursuant  
3 to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay.

4 Dated: June 28, 2006.

